

Elsass, Inc. and Jeffrey L. Hill. Case 9-CA-27145

February 7, 1994

SUPPLEMENTAL DECISION AND ORDER

BY CHAIRMAN STEPHENS AND MEMBERS
DEVANEY AND TRUESDALE

On June 22, 1990, the National Labor Relations Board issued a Decision and Order,¹ *inter alia*, ordering Elsass, Inc., to refund, with interest, dues unlawfully collected from certain employees in violation of the National Labor Relations Act. On September 30, 1992, the United States Court of Appeals for the Sixth Circuit enforced the monetary provisions of the Board's Order.

A controversy having arisen over the amount due these employees, on July 1, 1993, the Regional Director for Region 9 issued a compliance specification and notice of hearing alleging the amount due under the Board's Order, and notifying the Respondent that it should file a timely answer complying with the Board's Rules and Regulations. Although properly served with a copy of the compliance specification, the Respondent failed to file an answer.

By letter dated November 5, 1993, the Region advised the Respondent that no answer to the compliance specification had been received and that unless an appropriate answer was filed by November 12, 1993, summary judgment would be sought. The Respondent filed no answer.

On December 6, 1993, the General Counsel filed with the Board a Motion to Transfer Case to the Board and for Summary Judgment, with exhibits attached. On December 9, 1993, the Board issued an order transferring the proceeding to the Board and a Notice to Show Cause why the motion should not be granted. The Respondent again filed no response. The allegations in the motion and in the compliance specification are therefore undisputed.

Ruling on the Motion for Summary Judgment

Section 102.56(a) of the Board's Rules and Regulations provides that the Respondent shall file an answer within 21 days from service of a compliance specification. Section 102.56(c) of the Board's Rules and Regulations states:

¹ 298 NLRB No. 122 (not reported in Board volumes).

If the respondent fails to file any answer to the specification within the time prescribed by this section, the Board may, either with or without taking evidence in support of the allegations of the specification and without further notice to the respondent, find the specification to be true and enter such order as may be appropriate.

According to the uncontroverted allegations of the Motion for Summary Judgment, the Respondent, despite having been advised of the filing requirements, has failed to file an answer to the compliance specification. In the absence of good cause for the Respondent's failure to file an answer, we deem the allegations in the compliance specification to be admitted as true, and grant the General Counsel's Motion for Summary Judgment. Accordingly, we conclude that the net amounts due the employees are as stated in the compliance specification and we will order payment by the Respondent of these amounts to the employees, plus interest accrued on these amounts to the date of payment.

ORDER

The National Labor Relations Board orders that the Respondent, Elsass, Inc., Lima, Ohio, its officers, agents, successors, and assigns, shall make whole the individuals named below, by paying them the amounts following their names, plus interest:

Tracy L. Decker	\$26.00
Jeffrey L. Hill	66.08
Donald H. Sanning	70.16
Other employees similarly situated	811.12

Dated, Washington, D.C. February 7, 1994

James M. Stephens,	Chairman
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Dennis M. Devaney,	Member
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John C. Truesdale,	Member
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(SEAL) NATIONAL LABOR RELATIONS BOARD